

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

JAMES H. GORBEY, JR., Administrator of the
Estate of Marissa Rose Fishman, Deceased,

Plaintiff,

vs.

RICHARD LONGWILL, BARBARA
LONGWILL, AIR BASE CARPET MART, INC.
d/b/a Air Base Distributing, Inc. d/b/a Air Base
Carpet Mart, AIR BASE DISTRIBUTING, INC.,
ASHLAND CONSTRUCTION COMPANY, INC.,
JOSEPH RIZZO & SONS CONSTRUCTION,
VINCENT RIZZO CONSTRUCTION CO., INC.
d/b/a Ashland Construction Co., Inc., JOSEPH V.
RIZZO, and VINCENT RIZZO,

Defendants.

ORDER

AND NOW this _____ day of _____, 2006, upon consideration of the Motion for Partial Summary Judgment as to Choice Law and Damages filed by Defendants, Ashland Construction Company, Inc., Vincent Rizzo Construction Co., Inc., d/b/a Ashland Construction Co., Inc. Joseph V. Rizzo, and Vincent Rizzo, and Plaintiff's response there to, it is hereby ORDERED and DECREED that said Motion for Summary Judgment is DENIED in its entirety; this Court finds, in accordance with Plaintiff's Response to Said Motion, that Pennsylvania law will govern the determination of recoverable damages.

The Honorable Kent A. Jordan

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JAMES H. GORBEY, JR., Administrator of the
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d/b/a Air Base Distributing, Inc. d/b/a Air Base
Carpet Mart, AIR BASE DISTRIBUTING, INC.,
ASHLAND CONSTRUCTION COMPANY, INC.,
JOSEPH RIZZO & SONS CONSTRUCTION,
VINCENT RIZZO CONSTRUCTION CO., INC.
d/b/a Ashland Construction Co., Inc., JOSEPH V.
RIZZO, and VINCENT RIZZO,

Defendants.

ALTERNATIVE ORDER

AND NOW this _____ day of _____, 2006, upon consideration of the Motion for Partial Summary Judgment as to Choice Law and Damages filed by Defendants, Ashland Construction Company, Inc., Vincent Rizzo Construction Co., Inc., d/b/a Ashland Construction Co., Inc. Joseph V. Rizzo, and Vincent Rizzo, Plaintiff's response there to, it is hereby ORDERED and DECREED that said Motion for Summary Judgment is GRANTED in that the law of the state of Delaware shall apply to govern the recoverable damages in this case.

The Motion is DENIED insofar as it seeks to limit damages to the survival action; Plaintiff shall be afforded ten (10) days herefrom to amend the caption of the Complaint to add any appropriate beneficiary in accordance with the pleading requirements governing wrongful death actions under Delaware law.

The Honorable Kent A. Jordan